

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Sandra Peterson,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 12-77-0686
Parcel No. 010/05580-608-000

On November 5, 2013, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Sandra Peterson was self-represented. Assistant County Attorney Ralph Marasco, Jr. represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Sandra J. Peterson is the owner of property located at 3112 Southwest 31st Place, Des Moines Iowa. The real estate was classified residential on the January 1, 2012, assessment and valued at \$256,400, representing \$48,500 in land value and \$207,900 in improvement value. There was no change from the 2011 assessment.

Peterson protested the assessment to the Polk Board of Review on the grounds that the property was assessed for more than authorized by law under section 441.37(1)(a)(2) and there was an error in the assessment under section 441.37(1)(a)(4). We note the error claim essentially asserts the subject property is over-assessed. Peterson claimed the property's correct value was \$172,144.

The Board of Review denied the protest and increased the assessed value to \$269,100 based on the correction of errors and a recommendation of the Assessor's Office.

Because of her petition to the Board of Review, Appraiser Catron with the Assessor's office conducted a phone interview with Peterson. The interview resulted in the correction of listing errors by adding 700 square feet of living quality finish to the basement, including a bedroom; as well as a second fireplace and a wet bar, which ultimately resulted in the increased assessed value.

Peterson then appealed to this Board reasserting her claims. 2012 is an interim year, and as previously noted, Peterson's assessment did not change from the previous reassessment year (2011). Because there was no change in the assessment from 2011 to 2012, the only ground this Board can consider on appeal is that there has been a change in value since the last reassessment. Iowa Code §§ 441.35(2), 441.37(1)(b); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). This is the only ground available in an "interim year," such as 2012, when the assessor has not changed the property's assessment. § 441.35(2). Peterson did not plead this ground; however, the Board of Review acted on Peterson's petition and raised her assessment. Because the Board of Review acted on the petition, we find it acquiesced to the ground that there has been a change in value since the last assessment under sections 441.35(2) and 441.37(1)(b). *See Security Mut. Ins. Ass'n v. Bd. of Review of Ft. Dodge*, 467 N.W.2d 301, 305 (Iowa Ct. App.1991); *White v. Bd. of Review of Polk County*, 244N.W.2d 765,769 (Iowa 1976). This is the only ground we will consider on appeal. On her appeal form, Peterson contends the property's fair market value is \$180,786; however, at hearing, she stated she was unsure of the correct fair market value of the subject property

The subject property is a one-story, frame home built in 2002. It has 1698 square feet of above-grade living area and a full basement with 700 square feet of living quarters finish. Additionally, it has a deck, patio, open porch, and a three-car attached garage. The improvements are

listed as good quality grade (2+05) and in normal condition. The site is 0.23 acres. As previously noted, the Board of Review modified the subject property's assessment to \$269,100.

The record includes a document titled "Property Assessment Appeal Evidence," (Appeal Evidence) which was created in April 2012. We do not know who created the document, but it is attached to Peterson's Board of Review petition. The Appeal Evidence has a summary on page 1, asserting "the subject property is eligible for a reduced assessment based on the sales of comparable homes nearby." It further asserts the correct fair market value is \$172,144, which is the value Peterson provided on her protest form.

The Appeal Evidence includes a summary of twelve sales; however, they were not adjusted for differences. Of these twelve properties, Peterson relied on the first five as listed below.

Address	Gross Living Area	Basement Finish	Grade	Year Built	Assessed Value	Sales Price	Sale Date
Subject	1698	700 LQ	2+05	2002	\$269,100	N/A	N/A
3607 SW 30th St	1776	990 AP	3+00	1972	\$217,300	\$212,500	Jan-12
2821 Thornton Ave	1859	600 LQ	3+05	1986	\$213,800	\$213,000	Mar-11
3008 Thornton Ave	1727	400 AP	4+10	1977	\$168,700	\$156,500	Apr-11
2837 Willowmere Dr	2137	900 LQ	3-05	1966	\$218,500	\$180,000	Feb-12
3510 SW 37th St	1840	No Finish	3+05	1968	\$208,500	\$181,500	Sep-11

For clarification, we note the abbreviation LQ in the above grid refers to living quality finish and AP refers to Average Plus finish. The properties at 3008 Thornton Avenue and 2837 Willowmere Drive are split-level homes compared to the subject's one-story design. All of the other properties listed by Peterson are similar one-story properties. Although Peterson ultimately withdrew these comparable properties as evidence before this Board, she did not understand why these sales were considered inferior to the sales relied upon by the Board of Review.

The Board of Review's Appraiser Analysis notes that Catron reviewed Peterson's comparables. He found the comparable properties were older, not of the same quality, have lower grade factors, and

are in a different location from the subject. Additionally, Catron stated “sales of ranch homes comparable to subject property are very limited at this time.”

Polk County Deputy Assessor Amy Rasmussen testified for the Board of Review. Rasmussen explained that she manages and reviews the work of five appraisers in the Assessor’s office. She did not personally value the subject property, but she became aware of the subject property because of this appeal.

Rasmussen explained the subject property is a one-story home, and style is one of the first factors she considers when considering them for comparison. She notes two of the properties offered by Peterson are split-levels and she would not consider them for comparison to a one-story property. A second factor is age. She notes Peterson’s comparable properties were built between 1966 and 1986, compared to the subject’s year built of 2002. Rasmussen states that these properties are “significantly older” than the subject property, therefore depreciation would be different compared to the subject property. She also believes the quality of construction could be a factor based on age of the properties and era they were built.

Another factor Rasmussen considers when determining if a property is comparable is the quality rating. Rasmussen explained this rating to Peterson, stating the highest quality rating is a “0” and the lowest quality rating is a “6.” Rasmussen further testified, “The higher the quality, the more expensive it is going to be to build that property.” Rasmussen noted the subject has a grade 2+05 compared to Peterson’s comparable located at 3607 SW 30th Street, which has an inferior grade of 3+00. Ultimately, all five of Peterson’s comparable properties are “inferior” in grade to the subject property. According to the Appraiser Analysis, Catron did not consider Peterson’s properties comparable to the subject because of the combination of these three factors: style, age, and grade.

The Board of Review, provided three comparable properties it relied on to arrive at the increased assessment, after correcting the listing errors. These three properties are as follows.

Address	Gross Living Area	Basement Finish	Grade	Year Built	Assessed Value	Sales Price	Sale Date
Subject	1698	700 LQ	2+05	2002	\$269,100	N/A	N/A
3107 SW 31st Pl	2143	2011 LQ	0-05	2003	\$531,200	\$490,000	Oct-11
3300 SW 33rd St	2325	500 LQ	2-05	1992	\$271,800	\$279,000	Jul-11
3115 SW 30th St	3132	1500 LQ	0-05	1992	\$520,600	\$525,000	Mar-10

Rasmussen asserts these properties were considered because they are all one-story homes and they are similar in age. After these two factors, they look to the size of the properties. While all three of the Board of Reviews properties are larger, Rasmussen points out adjustments were made for that factor. She also asserts 3300 SW 33rd Street, although slightly older, is closer in grade to the subject. We note, the sales located at 3107 SW 31st Place and 3115 SW 30th Street are significantly superior in grade and both have more than twice the amount of basement finish. Moreover, 3115 SW 30th Street is nearly twice as large as the subject property. Lastly, we note all of these properties have larger lots ranging from roughly 19,000 square feet to 54,000 square feet compared to the subject's site size of 10,000 square feet. The Board of Review adjusted the three sales for differences, with gross adjustments ranging from 39.88% to 60.35%. Rasmussen acknowledges these are rather large percentages of adjustment, but that these sales were used "because there were no better comps in the neighborhood" and the Board of Review "was unable to find more similar sales."

After adjustments for differences, these sales have indicated values as follows:

Address	Adjusted Sales Price
Subject	
3107 SW 31st Pl	\$294,575
3300 SW 33rd St	\$234,274
3115 SW 30th St	\$260,519

When questioned by this Board, Rasmussen was unable to explain how Catron determined a final opinion of value of \$269,780 based on these sales. Other than stating the properties at 3107 SW

31st Place and 3300 SW 33rd Street were the “best comps available at present time,” Catron did not provide any reconciliation. Eventually, Rasmussen testified “the computer” comes up with the value.

Furthermore, when we questioned why the Board of Review’s sales were more reliable, Rasmussen reasserted that they were more similar in age, but admitted that they “were not fantastic comps.” She does believe they are more comparable to the subject based on quality and size than Peterson’s properties, which were built in the 1960’s and 1970’s.

Altogether, we find the Board of Review’s comparable properties differ significantly from the subject property. Although the Board of Review declined to consider Peterson’s comparables due to, among other things, differences in quality and location, these comparables also include properties that have large variances in quality, size, and amenities. Like Peterson, we find it concerning that the Board of Review would disregard her comparables because of differences between them and the subject, but then proceed to utilize comparables that also vary significantly from the subject.

At this Board’s request, the Board of Review also provided a spreadsheet and map of single-family residence sales from January 1, 2010, to December 31, 2011. The spreadsheet contains additional information about each sold property, including total square feet of living area, grade, quality, condition, and basement finish. We note that not all sales shown on the map are listed on the spreadsheet. For instance, a June 15, 2011, sale for \$252,500 of a property located in DMC1A6 is shown on the map but is not listed on the spreadsheet.

The spreadsheet provided by the Board of Review includes twenty-five sales. Of these, twelve were one-story homes. Of the one-story sales, five were built between 1992 and 2003, which appears to be the relevant construction time considered by Catron. Of those five sales, Catron’s comparable properties are comprised of the three highest sale prices. The other two properties, which appear to be of similar size, style, quality, and condition as the subject property are shown in the following grid.

Address	Gross Living Area	Basement Finish	Grade	Year Built	Sales Price	Sale Date
Subject	1698	700 LQ	2+05	2002	N/A	N/A
2801 Virginia Pl	1641	900 LQ	3+00	1993	\$260,000	Nov-10
3701 SW 36th St	1728	1040 LQ	2-05	1998	\$240,000	May-10

Both of these properties are one-story homes like the subject property; and both are more similar in size, basement finish, and grade than the three sales selected by the Board of Review. Given the similarities, it appears these properties would require fewer and smaller adjustments than the properties Catron considered. Additionally, we find these sales refute Rasmussen's testimony that there were "no better sales" than those considered by Catron. Ultimately, we question why Catron and the Board of Review did not consider these sales and instead relied on properties which, as we have already found, differ significantly from the subject.

In essence, Rasmussen's testimony amounted to a review of Catron's work, an explanation of the general process she would use to select comparables, and a critique of Peterson's comparables. By her own admission, Rasmussen did not personally select the sales, make the adjustments, complete the reconciliation, and draft the Appraiser's Analysis at issue in this appeal. As a result, she was unable to explain Catron's rationale for selecting the specific comparables he ultimately relied upon, and she could not explain how the final opinion of value was determined based on his analysis. Although her testimony is instructive, we find that Rasmussen's testimony is less persuasive than the testimony of an appraiser who personally completed the assessment.

In this appeal, however, Peterson carries the burden of proof. She must provide evidence of the fair market value as of January 1, 2011, and January 1, 2012, to support her claim of a change in value. Ultimately, she did not provide sufficient evidence of the property's fair market value as of either date to establish that the property suffered a downward change in value.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

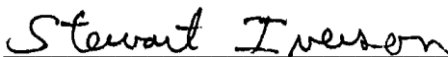
In a non-reassessment or "interim" year, when the property's assessment has not changed, a taxpayer may challenge its assessment on the basis that there has been a change in value from the immediately preceding assessment year. Iowa Code §§ 441.35(2), 441.37(1)(b) (2013); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977). For Peterson to be successful

in her claim of change in value, she must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co.*, 252 N.W.2d at 450. The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for Peterson to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451. Thus, in order to prevail on her claim, Peterson must provide evidence of the subject property's fair market value as of January 1, 2011, and January 1, 2012.

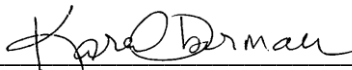
Here, the comparables offered by the Board of Review differ significantly from the subject property. We question why the Board of Review gave no consideration to Peterson's comparables or to other sales which appear to be more comparable. Despite our concern with the comparability of the Board of Review's properties, however, it is still Peterson's burden to show a downward change in value from January 1, 2011, to January 1, 2012. Peterson has not provided evidence of the property's fair market value as of either date. Therefore, we find that Peterson has not established the subject property suffered a downward change in value from 2011 to 2012.

THE APPEAL BOARD ORDERS the assessment of Sandra J. Peterson's property located at 3112 SW 31st Place, Des Moines, Iowa, as set by the Polk County Board of Review, is affirmed.

Dated this 4th day of December, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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